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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re the Marriage of KARLA and TODD
MATTHEW WOODS.

KARLA WOODS,

Respondent,

v.

TODD MATTHEW WOODS,

Appellant.

F070804

(Super. Ct. No. M-1502-FL-5623)

OPINION

APPEAL from an order of the Superior Court of Kern County. Bryan K. Stainfield, Judge.

Todd Matthew Woods, in pro per., for Appellant.

Kiner Legal Group and Russell J. Kiner for Respondent.

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Appellant, Todd Matthew Woods (Husband), challenges the issuance of a permanent domestic violence restraining order in the action for the dissolution of his marriage to respondent, Karla Woods (Wife). Although the action was originally filed in San Bernardino County, the Judicial Council assigned it to Kern County.

Husband contends the Kern County Superior Court did not have jurisdiction to issue the restraining order because he objected to Kern County as the venue and his objection was not ruled on. Husband argues the matter should have been assigned to Riverside County.

Husband's consent was not necessary to move the case to Kern County. Further, Husband did not follow the correct procedure to change the venue. Moreover, the restraining order is supported by substantial evidence. Accordingly, the order will be affirmed.

BACKGROUND

On June 16, 2014, Wife filed a declaration for a same day hearing and a request for a domestic violence restraining order. Wife alleged that Husband had started a pattern of stalking and she feared that he may become violent. She stated that Husband had already planted a gun in her car to get her arrested and had followed her to work. Wife further explained that throughout the marriage Husband had been physically violent to all six of their children and had been mentally, verbally and emotionally abusive as well. Wife further documented various abusive events that had occurred over the past few months, including threats and harassment. Declarations from two of the couple's adult children further documented incidents of Husband's abuse. The request for a temporary restraining order was granted and a hearing on the permanent order was set.

The next day, Wife filed a petition for dissolution of the marriage.

The matter was referred to Family Court Services and a trial was set for September 19, 2014. Thereafter, the trial was continued to November 14, 2014. However, in the meantime, the San Bernardino court determined that it could not hear the case and requested the Judicial Council to assign the case to another county.

On October 20, 2014, notice was given that the Judicial Council had assigned the case to the Kern County Superior Court. On October 24, the parties were notified that the

trial on the restraining order request was set at the Mojave Branch of the Kern County Superior Court for November 17, 2014.

On November 10, 2014, Husband filed a “jurisdictional challenge” in the Kern County action. While Husband agreed that the case needed to be removed from San Bernardino County, he stated he did not stipulate to removal to Kern County. Rather, he requested the case be moved to Riverside County.

Wife appeared at the Mojave Branch of the Kern County Superior Court on November 17, 2014. When the matter was called, Husband was not present. The court held a discussion regarding Husband’s apparent belief that San Bernardino County did not have the right to send the case to Kern County. Wife’s counsel informed the court that he had had contact with Husband and explained to him that the Judicial Council chose the venue and that was what they were “stuck with.” The court trailed the matter to second call to give Husband more time to arrive.

When the case was recalled, Husband still was not present. The court found the case was in Kern County “appropriately jurisdictionally” and that proper notice had been given. The court noted that the case was sent to Kern County by the Judicial Council based on orders from the San Bernardino County Presiding Judge. The court then ruled that the temporary restraining orders would become permanent orders of the court for five years.

DISCUSSION

The crux of Husband’s appeal is his claim that venue was not properly in Kern County, because he objected to, and did not stipulate to, that venue. Therefore, Husband argues, the order is void.

Code of Civil Procedure section 397 provides that the court may change the place of trial under certain conditions. One such case is “[w]hen from any cause there is no judge of the court qualified to act.” (§ 397, subd. (d).) Here, because of certain of Husband’s litigation tactics including threatening to sue San Bernardino County, the San

Bernardino County Superior Court's Presiding Judge determined that no judge could hear the case. Therefore, it was necessary to change venue.

Under Code of Civil Procedure section 398, when the court orders the transfer of a case, it must be transferred to a court having subject matter jurisdiction that the parties may agree upon. However, if the parties do not so agree, then the case will be transferred to the nearest or most accessible court. Thus, contrary to Husband's position, his consent was not required to transfer the case to Kern County.

Further, Husband did not follow the correct procedure to challenge the venue. If a party is aggrieved by a superior court order changing the place of trial, the remedy is to petition the court of appeal within 20 days after service of written notice of the order for a writ of mandate requiring trial of the case in the proper court. (Code Civ. Proc., § 400.) Only after either that time has expired or the judgment denying such writ has become final, will the matter be transferred. (Code Civ. Proc., § 399.)

Thus, Husband was not excused from making an appearance in the Kern County Superior Court on November 17, 2014, based on his filing an objection to the transfer in the Kern County Superior Court. Husband had notice of the hearing and chose to not appear to argue his case. Accordingly, Husband's claim that he was denied due process has no merit.

Moreover, the record supports the trial court's issuance of the domestic violence restraining order.

The Domestic Violence Prevention Act (DVPA) authorizes the trial court to issue a restraining order "for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved, if an affidavit ... shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse. (Fam. Code, § 6300.) For purposes of the DVPA, abuse includes stalking, striking, threatening, battering, harassing, or disturbing the peace of the other party and, in the discretion of the court, other named family members. (Fam. Code, §§ 6203, 6320.)

The standard of review for the grant of a protective order under the DVPA is abuse of discretion. (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1495.) Such an abuse occurs only when the ruling exceeds the bounds of reason. (*Eneaji v. Ubboe* (2014) 229 Cal.App.4th 1457, 1463.)

Here, after reviewing the file, the court ruled that the temporary orders were going to become the permanent orders of the court. Thus, the court found reasonable proof of abuse.

It is within the trial court's purview to make factual findings and they will not be disturbed on appeal when they are supported by substantial evidence. Accepting as true all evidence that tends to establish the correctness of the trial court findings and resolving every conflict in favor of the ruling, we conclude the trial court's abuse determination is supported by the record. (*Sabbah v. Sabbah* (2007) 151 Cal.App.4th 818, 822-823.) Wife's declaration and the declarations from two of the parties' adult children demonstrate that Husband was physically violent and emotionally abusive and that he had been stalking, threatening and harassing Wife. Husband presented no evidence to contradict these allegations. Accordingly, the trial court did not abuse its discretion when it issued a permanent restraining order against Husband.

DISPOSITION

The order is affirmed. Costs on appeal are awarded to respondent.

LEVY, Acting P.J.

WE CONCUR:

GOMES, J.

KANE, J.